

FEB 22 2006



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Date:	February 22, 2006		
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In Re. Application of:

J. David Blaha

Art Unit: 3733

Our Ref.: 702.118

Application No.: 10/764,726

Examiner: Mary C. Hoffman

Filed: 01/26/2004

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For: Compacting Broach

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Response to Restriction Requirement - 3 pgs.

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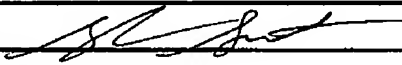
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/764,726	
	Filing Date	01/26/2004	
	First Named Inventor	J. David Blaha	
	Art Unit	3733	
	Examiner Name	Mary C. Hoffman	
Total Number of Pages In This Submission	5	Attorney Docket Number	702.118

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Firm Name	Wright Medical Technology, Inc.		
Signature			
Printed name	Shawn D. Sentilles		
Date	February 22, 2006	Reg. No.	38,299

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APPLICANT: J. David Blaha
FILING DATE: 01/26/2004
TITLE: Compacting Broach
APPLICATION NO.: 10/764,726
EXAMINER: Mary C. Hoffman
ART UNIT: 3733
ATTORNEY DOCKET NO.: 702.118

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RESPONSE TO RESTRICTION REQUIREMENT

Applicant responds as follows to restriction and election requirements set forth in the Office Action mailed January 23, 2006.

Restriction Requirement

The Examiner requires restriction between Invention I (claims 1-10) and Invention II (claims 11-12). Applicant traverses the restriction requirement, and provisionally elects Invention I (claims 1-10).

Applicant traverses the restriction requirement on grounds that the Commissioner has not met its burden of establishing a prima facie basis as to why Invention I and Invention II are independent and distinct. The Examiner bases restriction solely on the following position: "In this case the apparatus as claimed can be used to practice another and materially different process, for example, the broach can be used to cut other areas in the body." It is important to note that instrument claims 1-10 and method claims 11-12 are both specifically drawn to a
SN 10/764,726